FIRST ANNUAL ADDRESS

BEFORE THE

Law Class

OF THE

University of North Carolina

DELIVERED BY

Honorable Thomas C. Fuller

JUDGE OF THE UNITED STATES COURT OF
PRIVATE LAND CLAIMS

Commencement 1898

RALEIGH
PRESSES OF EDWARDS & BROUGHTON
1898

ADDRESS.

Ladies and Gentlemen, Gentlemen of the University Law Class of 1898:

Not all of you will become practicing lawyers, some of you doubtless will pursue other avocations; it is to those of you who will take upon yourselves the active, laborious and responsible duties of the litigations, and the conduct and guidance of the important affairs, of others, that I shall chiefly address myself. There is not among men a nobler intellectual pursuit, nor is there a higher moral standard, than inspires and pervades the ranks of the legal profession; you will look in vain elsewhere for more spotless honor, more absolute devotion, more patient industry and more conscientious fidelity, than is to be found there. I do not mean to say that among the thousands of lawyers, among the seventy millions of people in the United States, there are not some who are base and sordid and knavish, but I maintain that, in proportion, there are to be found not a greater number of disreputable persons than in the other avocations of life.

The practice of law is a most honorable avocation, and worthily pursued, gives honor to the lawyer, and by his conduct it is magnified and made more honorable. With, I hope, a properly becoming professional pride, I wish to impress upon you, who are to become men of mark in your respective communities, leaders of public thought and sentiment, that you owe a very high duty to "the Law of the Land"—that by your lives and conduct you show forth that the Law is maj-

estic, the Law is benignant and the Law is terrible: majestic, because it is just; benignant, because it has regard to the frailties and infirmities of human nature, protecting as a father, the weak, simple and defenceless: and terrible, in that it can, in its punitive power, say to the highest as well as to the lowest of humanity, cease to exist, and life ends at its appointed time.

Akin to this, you owe another very high duty to the profession which you have chosen. Respect your profession, and show that you do respect it by your conduct; do not follow it as a business for the mere making of money; demand for honest, faithful services, fair compensation, but never take advantage of your opportunities to cheat, extort or oppress; the old Roman lawyers regarded the fee paid by the client to the lawyer as a "quiddam honorarium," and the lawyer of this day who does not, to a certain extent, so regard it, fails to show that high respect for the profession which is its due. See to it, that you so discharge these duties as to restore to the Law and its ministers something of the reverence of former days.

Before entering upon the practice of the Law, each one of you will be required to take three oaths, and, as you shall properly understand and faithfully fulfill these obligations, so shall your memory live among your fellow-men, and your children's children shall call you blessed.

1. You shall swear to support and maintain the Constitution of the United States.

2. To support and maintain the Constitution of the State of North Carolina, not inconsistent with the Constitution of the United States; and

3. To honestly and faithfully demean yourself as an attorney and counsellor at Law.

You will observe that paramount allegiance is due to

the United States, and that the man of to-day, without cherishing bitter memories of the past—regarding the war between the States as a mere episode in the Nation's life—yielding full and active assent to the logic of accomplished facts—recognizing the great American Union with every State and Territory as HIS Country, for which in his patriotic ardor he feels that, if need be, it would be decorous and sweet to die; this feeling entertained, and illustrated by life and conduct, and nothing less than this, is the proper keeping of the first oath. In brief, paramount allegiance to the Constitution of the United States only finds expression in the sentiment, "Our Country, may she always be right; but right or wrong, our Country."

To support and maintain the Constitution of North Carolina, with all that due allegiance to the State implies, both in its letter and spirit, needs no explanation to the sons of the sires who were "First at Bethel and last at Appomatox."

And the third and last, or the attorney's oath, as it is called, requires the practice of good faith in all of a lawyer's dealings, but particularly of the utmost good faith, and of the highest honesty, in the relation of attorney and client; remember, that when this relation is once established, the attorney may not sever it without good cause; and that while the relation exists he is bound, by his oath and honor, to serve the client as he would serve himself. He must be sober, that he may always be ready for any required service; he must be diligent in the preparation and trial of his case, in order that he may serve him intelligently; he must be vigilant, lest by his inattention the client's interests suffer, and above all, he must be so true to the client that he will do all in his power that the law permits, according to the best of his skill and ability, and that an honora-

ble man can be required to do; and to do less than this is not the honest and faithful demeanor of an attorney.

Having been inducted into the high and honorable office of Attorney and Counsellor, the question which is the title of one of the most powerful works of English fiction demands an answer, "What will he do with it?" and I answer, he will do his duty, or he will do less than his duty—he can not do more—and that duty is to serve his client, and to devote to that service all the powers of his mind and heart—to serve him to the verge of the law, and till success crowns his efforts or "death's pale flag floats o'er the ramparts."

The lawyer's duties to his client range themselves under two general heads—to counsel and advise, and to try his cases in the courts.

On the first, I shall not dilate, only remarking that as the law arises from the facts, the lawyer before giving advice should diligently seek to possess himself of the facts, and after doing this, for the law should go to the "books"; for I give unto you a better commandment than "Go West, young man," which is "Stay in your office and go to the books, young man."

In the trial of a case in the courts of Nisi Prius, before a judge and jury, if it be one of great importance, especially if the supreme issue of life or death is to be tried, it will tax all the powers of mind and body to so conduct the trial, that at its close the conscientious lawyer can say to himself, well done. As in such cases the verdict is according to the evidence, the most important part in the conduct of a trial is the examination and cross-examination of the witnesses. There is not an experienced practitioner of the law whose observation does not confirm the statement of one of the ablest criminal lawyers this country has produced, "that there is often more mind and more knowledge of human na-

ture displayed in the examination of witnesses than in the discussion of the cause to which their testimony relates. Evidence without argument is worth much more than argument without evidence. In their union they are irresistible."

I therefore present to you twenty rules for the examination and cross-examination of witnesses, formulated and illustrated by the same able lawyer to whom I have referred, which, tested by my observation and experience, it is always safe to follow, and from which it is always perilous to depart. These rules, well called "Golden Rules," each young lawyer should study and practice until they become a part of his professional being.

1. As to your own witnesses: If they are bold, and may injure your case by pertness or forwardness, observe a gravity and ceremony of manner toward them which may be calculated to suppress their assurance.

2. If they are alarmed or diffident, and their thoughts are evidently scattered, commence your examination with matters of a familiar character remotely connected with the subject of their alarm or the matter in issue, as, for instance, Where do you live? Do you know the parties? How long have you known them? etc.; and when you have restored them to composure, and the mind has gained its equilibrium, proceed to the more essential features of the case, being careful to be mild and distinct in your approaches, lest you may trouble the fountain again from which you are to drink.

3. If the evidence of your own witness be unfavorable to you (which should always be carefully guarded against), exhibit no want of composure; for there are many minds that form opinions of the nature or character of testimony chiefly from the effect which it may appear to produce upon the counsel.

4. If you perceive that the mind of the witness is imbued with prejudice against your client, hope but little from such a quarter; unless there be some facts which are essential to your client's protection, and which that witness alone can prove, either do not call him or get rid of him as soon as possible. If the opposite counsel perceive the bias to which I have referred, he may employ it to your own ruin. In judicial inquiries, of all possible evils, the worst, and the least to be resisted, is an enemy in the disguise of a friend. You can not impeach him, you can not disarm him, you can not, indirectly even, assail him; and if you exercise the only privilege which is left to you, and call other witnesses for the purpose of explanation, you must bear in mind that instead of carrying war into the enemy's country, the struggle is between sections of your own forces, and in the very heart, perhaps, of your own camp. Avoid this by all means.

5. Never call a witness whom your adversary will be compelled to call. This will afford you the privilege of cross-examination, take from your opponent the same privilege it thus gives you, and, in addition thereto, not only renders everything unfavorable said by the witness doubly operative against the party calling him, but also deprives that party of the power of counteracting the effect of the testimony.

6. Never ask a question without an object, nor without being able to connect that object with the case, if objected to as irrelevant.

7 Be careful not to put your question in such a shape that, if opposed for informality, you can not sustain it, or, at all events, produce strong reason for its support. Frequent failures in the discussion of points of evidence enfeeble your strength in the estimation of the jury and impair your hopes in the final result.

8. Never object to a question from your adversary without being able and disposed to enforce the objection. Nothing is so monotonous as to be constantly making and withdrawing objections—it either indicates a want of correct perception in making them, or a deficiency of reason or of moral courage in not making them good.

9. Speak to your witness clearly and distinctly, as if you were awake and engaged in a matter of interest; and make him also speak distinctly and to your question. How can it be supposed that the court and jury will be inclined to listen, when the only struggle seems to be whether the counsel or the witness shall first go to sleep?

10. Modulate your voice as circumstances may direct. "Inspire the fearful and repress the bold."

11. Never begin before you are ready—and always finish when you have done. In other words, do not question for question's sake, but for an answer.

CROSS-EXAMINATION.

1. Except in indifferent matters, never take your eye from that of the witness. This is a channel of communication from mind to mind, the loss of which nothing can compensate.

> "Truth, falsehood, hatred, anger, scorn, despair,
> And all the passions—all the soul is there."

2. Be not regardless, either, of the voice of the witness; next to the eye, this is perhaps the best interpreter of his mind. The very design to screen conscience from crime, the mental reservation of the witness, is often manifested in the tone or accent or emphasis of the voice. For instance, it becoming important to know that the witness was at the corner of First and Second streets at a certain time, the question is asked. "Were

you at the corner of First and Second streets at 6 o'clock?" A frank witness would answer, perhaps, "I was near there." But a witness who is desirous to conceal the fact and defeat your object (speaking to the letter rather than to the spirit of the inquiry), answers "No," although he may have been within a stone's throw of the place, or at the very place within ten minutes of the time. The common answer of such a witness would be, "I was not at the corner at 6 o'clock." Emphasis upon both words plainly implies a mental evasion or equivocation, and gives rise, with a skillful examiner, to the question, "At what hour were you at the corner?" or "At what place were you at 6 o'clock?" And in nine instances out of ten, it will appear that the witness was at the place about the time or at the time about the place. There is no scope for further illustration; but be watchful, I say, of the voice and the principle may be easily applied.

3. Be mild with the mild, shrewd with the crafty, confiding with the honest, merciful to the young, the frail or the fearful, rough to the ruffian, and a thunderbolt to the liar. But in all this, never be unmindful of your own dignity. Bring to bear all the powers of your mind, not that you may shine, but that virtue may triumph and your own cause prosper.

4. In a criminal, especially in a capital case, so long as your cause stands well, ask but few questions, and be certain never to ask any, the answers to which (if against you) may destroy your client, unless you know the witness perfectly well, and know that his answer will be favorable, equally well; or unless you be prepared with testimony to destroy him, if he play traitor to the truth and your expectation.

5. An equivocal question is almost as much to be avoided and condemned as an equivocal answer. Single-

ness of purpose, clearly expressed, is the best trait in the examination of witnesses—whether they be honest or the reverse. Falsehood is not detected by cunning, but by the light of truth, or if by cunning, it is the cunning of the witness and not of the counsel.

6. If the witness is determined to be witty or refractory with you, you had better settle that account with him at first, or its items will increase with the examination. Let him have an opportunity of satisfying himself, either that he has mistaken your power or his own. But, in any result, be careful that you do not lose your temper. Anger is always either the precursor or evidence of assured defeat in any intellectual conflict.

7. Like a skillful chess player, in every move fix your mind upon the combinations and relations of the game —partial and temporary success may otherwise end in total and remediless defeat.

8. Never undervalue your adversary; but stand steadily upon your guard. A random blow may be just as effective as though it were directed by the most consummate skill—the negligence of one often cures, and sometimes renders effective the blunders of another.

9. Be respectful to the court and jury, kind to your colleague, civil to your antagonist, but never sacrifice the slightest principle of duty to an over-weening deference toward either.

A judicious and clear development of the facts of the case is more important than the ablest and most eloquent argument, indeed skillful examination often secures a verdict without argument.

The charge given to the jury in empanelling them, "Sit together, hear your evidence and give your verdict accordingly," is not mere formality; for as no evidence can be considered by the jury except that which the

Judge permits to go to them, so none other is "their evidence," and as the jury judges of the credibility of the witness by his manner and demeanor upon the stand, by his attitude toward the parties and the cause, etc., it is the business of the examining lawyer to bring these matters to their attention and thus make these things "their evidence" as well as the matter to which the witness testifies. And you will also remember that the jury and the Judge, being mere men, with the same feelings, passions, frailties and infirmities that other men have, are influenced (unavoidably often) by the manner of his counsel, to take a favorable or unfavorable view of the client's cause.

And just here, I will remark, that though trial by jury sometimes falls short of the ascertainment of truth, it is because it is of human origin, and, like all of the other works of man, is not perfect; but this much may and must be said for it—the ingenuity of man has never found a better method for the trial of disputed facts.

The next step in importance in the trial of a case is the argument of counsel or the summing up of the evidence.

The lawyer has no more difficult task to perform than that of defending a person charged with a capital felony. I will therefore offer you some suggestions in that behalf—the result of reading the lives and writings of great masters of the art of defending persons for their lives, tested and verified by my own experience and observation in the courts.

Before you undertake to defend in a case of this kind, be well satisfied, in your own mind, that you are competent to discharge, properly, the fearfully responsible duty you are called upon to assume; do not let a desire for that notoriety (which appearance in a case of great interest in the community always gives), blind you to

the difficulties and dangers by which you will inevitably be surrounded; for remember, if your task be unskillfully and poorly performed, the blood of the defendant, the maledictions of his relatives and friends, the contempt of the community, and condemnation of your own conscience will deservedly be laid upon you, as the result of your presumptuous folly. If not satisfied, fully satisfied, of your ability, either decline the proposed employment or insist that more experienced and able counsel shall take the leading part while you become the junior.

If you are satisfied that you are both intellectually and physically competent to the task, you should decline the employment unless you feel assured that your feelings are deeply enlisted for the defendant, and that your feelings, instead of impairing your efforts, will only incite you to redouble them. You should feel that you will not make any cold-blooded defense, but that with all of your powers, both of mind and body, you will make the defense; that you will defend as you would defend your own wife or son or daughter or yourself, and that you will not abate one jot of heart or hope until the fatal trap shall fall; and then you will have the consolation of feeling, "I knew my duty, and I did it."

Having undertaken the defense, you should then see the defendant at the earliest moment possible, and at once gain his confidence; when this is done let him make his statement of the matter fully and at the greatest length he will, and to encourage him to be frank, give him the assurance that whatever he shall say to you will never be divulged, nor can you ever be made to divulge it; do not be impatient, do not hurry him, but rather encourage him to tell you all about himself, his mode and habits of life and thought, his

family and connections, his likes and dislikes, and especially everything relating to the crime with which he is charged, and his connection, if any, therewith. I say you must be patient with the defendant, especially in the first interview, for if you will defend him as you would defend yourself, you must seek to learn as much about his life and character as you know about your own; nor need you fear that he will tell you such things about himself as will cause your zeal in his behalf to sensibly abate, for defendants always make to their lawyer statements the most favorable to themselves that can be made.

When the defendant is brought up before the examining magistrate for preliminary hearing, waive examination, unless you feel absolutely certain that it can be shown either that no crime or at least no capital crime has been committed, or that there is no probable reason to believe that the defendant is guilty; unless, I say, it is so *absolutely* certain, waive examination and let the defendant go to jail. If you deem it of great importance to learn what the witnesses for the prosecution will testify to *and can not learn it otherwise*, it is sometimes advisable to decline to introduce the defendant's evidence after the evidence for the prosecution is in; but generally this course is not advisable—as upon a waiver of examination there is no record of the evidence, such of the witnesses for the prosecution as have died or moved beyond the limits of the State can not be used against you at the trial.

I have said let the defendant go to jail; there is no better place for the defendant to spend the interval between his arrest and trial than the jail. True there are discomforts attending imprisonment, and confinement is irksome; but in jail the defendant is more nearly under the control of his counsel, the jailor may be forbid-

den to allow anyone to see his prisoner except by his counsel's consent, and even the keepers may be forbidden to talk to the prisoner or allow him to talk to them about his case. You will find that nearly the only surprises that well-prepared counsel encounters are incriminating statements made or manufactured to the prisoner's hurt—indeed it is a common saying that men charged with high crimes are more hurt by what they say, or what it is alleged they say, than what they do.

Again, the sympathy of the community generally turns to the defendant in jail, especially if his imprisonment has been long continued.

Another safe rule to follow is never to try a doubtful case at the first term of court, if it can possibly be avoided; and not to try it as long as you can continue it, unless at a given term you can gain an important advantage that would not be *possible* to you at a subsequent term. Time is a great healer. Witnesses may die, or remove and not be found, the ardor of the prosecution may cool, the temper of the witnesses for the prosecution may molify, and the violence of the public sentiment against the prisoner will surely abate as the time the prisoner remains in jail is extended.

You will understand that it is not easy in all cases to follow these directions, for the friends and relatives of the defendant, in their anxiety to save him, will generally complain that the defendant's case was not gone into fully before the examining magistrate, or that an effort has not been made to bail him, or that his imprisonment has been so long continued, and frequently the defendant is of the same opinion. But firmly and decidedly you should disregard their clamor, and make them understand and feel that what you do is for the best and is best calculated to produce a favorable result.

Of course you must continually and urgently advise,

and *command* the defendant that he shall talk to no one, "either friend or relative, priest or layman," about his case.

In the preparation of the case, and especially in its trial, you must know no fear, but that of failure, and even that you must permit nobody to discover through you. Waive no right that you may possess that may affect the defendant, and permit no advantage to be taken of him—remember, you guard the citadel of human life—be wary and be firm. The Judge and the jury, it is true, take the life of the defendant, but you are not, by your failure, in any respect, to give it away. You, like the gladiator, are to train carefully and laboriously for the conflict, and like him to strive mightily for the mastery, and win the splendid prize of victory—the life of man. And, after all your efforts, you may not acquit an innocent man, but you will, by a firm, faithful and fearless discharge of your duty, acquit yourself.

You must enter on the trial of a capital case as a physician should enter the death chamber: calmly, gravely, solemnly—all eyes are upon you, all hopes are upon you, all fears are upon you That is no time for flippancy or agitation, much less for smiling or merriment; sport would be as well timed at a funeral.

Sit by the prisoner while you make, for him, his challenges to jurors; do it in a mild, courteous way, lest you make enemies, while your chief object should be to make friends. If you ever challenge for cause and the challenge fails, be certain you have not exhausted your right to a peremptory challenge, and *immediately exercise it*, and never challenge the last juror to be presented to you unless you have a peremptory challenge.

The jury being completed, deliberately proceed with the trial of your case—no hurry, no conferences, no

gossip, no levity, no divided attention—note all that transpires closely, and look as you should feel, calm and composed; for the defendant and all connected with him look at and to you.

If the witnesses for the prosecution do not affect your defense seriously, do not cross-examine them at all, unless you are certain they can and will prove something affirmatively for the defense.

In trying your case, if the character of the defendant be strong, and his facts weak, introduce your character witnesses first; if his facts be strong and his character weak, introduce his character witnesses last, or not at all, which last is generally the better course to pursue.

It is permitted to examine the defendant as a witness in his own behalf, and though the law provides that if he does not avail himself of the privilege he shall not be prejudiced thereby, and though the Judge will charge the jury, as the law makes it his duty to do, that no inference, unfavorable to the defendant, is to be drawn by them by reason of such failure; yet they will (naturally perhaps) conclude that the defendant does not go on the stand because, and only because, he knows himself to be guilty, and is afraid of the cross-examination; therefore, if the prisoner be an intelligent man, and being made to understand the risk, insists upon testifying, it is safer to let him do so, unless you are absolutely sure it will be too hazardous; if you are so sure, it is your duty to decline to put him on the witness stand, *and take the responsibility upon yourself.* The determination of this matter is extremely difficult frequently, and requires the deliberate exercise of your best judgment, uninfluenced by any other consideration than the promotion of the best interest of the defendant. He may desire to go on the witness stand, may insist upon it, may demand it as his right; his

friends may join him, the greatest pressure may be brought to bear upon you to yield, and you will doubtless earnestly wish to yield to their pleadings. But if *your judgment says no*, you must firmly refuse.

Throughout the trial, you must never despair. I have often known the worst case in the beginning prove to be the best case in the end. If the defendant have a family, much as it may cost, the family should be present with him in the hour of his extremest need; he will suffer more by their absence. Their presence will give a proper tone and complexion to the scene; it is worth a thousand fancy sketches of conjugal or filial agony. The sight of the agonized condition of the wife and children, and the contemplation of their wretchedness in case of an adverse verdict, and their joy and gratitude if the verdict shall be favorable to the defendant, will bring to the minds of the jurors more forcibly than everything else can, a sense of their own responsibility, and fortify them for the proper discharge of their duty, to give to the defendant the full "benefit of any reasonable doubt," and to act upon that humane maxim of the law, that it is better "that ninety and nine guilty men should escape than that one innocent man should suffer."

If your efforts shall be crowned with success, be thankful to God and the jury, but exhibit no vain spirit of boasting; enjoy your triumph with becoming modesty and moderation.

If the defendant is convicted, do not despair; as an old lawyer friend of mine used to say, "A *good* lawyer only begins to fight when a verdict is returned against his client." Certain it is that much is to be hoped from a motion for a new trial, or a motion in arrest of judgment, or failing these, from an appeal to the court of last resort. It is only after the judgment of the

trial court is affirmed and a pardon has been refused, and the executioner has carried into effect the sentence and judgment of the law—then, and not till then, are your duties done.

But to return from this digression to the argument, or summing up of the evidence. If there is more than one attorney for the defense, the one who is to make the main argument should (except for good cause) conduct the examination of the witnesses. Which one shall make the main argument and which one conduct the examination, should as far as possible be settled before the trial begins.

If the defendant introduces no evidence his side is entitled to open and conclude; in that event, a junior should open and the leader conclude; but the junior's opening should not be merely formal—he should be instructed to do his best. If the prosecution has the opening and conclusion, it is a much mooted point as to whether the leader for the defense should make the opening or closing speech on his side. I have observed the best results generally follow the leader's making the opening, especially if he be a practiced and able advocate; in this opening he should disclose the full defense, clearly and candidly, and cover the whole ground, as if nobody on his side were to speak after him. This course is commended by at least two good reasons: First, it presents to the jury, at the earliest possible moment, the prisoner's defense under the most favorable light; and, second, if the opening be thorough and exhaustive (as it should be) it is very apt to give tone and direction to the whole subsequent discussion.

The counsel should come to the argument of the case in the best possible physical condition, keeping up as far as he can his regular habits; he should get, if possible, eight hours of sound, healthy sleep the night before he

is to speak, for, I assure you, it is much more conducive to the successful termination of the defendant's case that his counsel should sleep well the night before, than that he shall spend the night in preparation which he should have completed before—for it is better that the case should not be fully prepared for argument than that the counsel should be physically unprepared to argue it. Lord Coke's rule is a good one for a lawyer to follow at all times: "Eight hours to sleep, to law's grave study seven, eight to the world, and all to heaven."

Lawyers should not take notes; especially should those who make the defense of persons charged with high criminal offenses somewhat of a specialty, rely on memory, so far at least as the testimony of the witnesses is concerned; cultivate the memory, and it will be so strengthened thereby that it will serve you better than any notes, other than the verbatim notes of a stenographer, as to accuracy, while memorized testimony is infinitely the best for use in other respects. I have known lawyers to try, and try well, long and complicated cases without taking a single note from the beginning to the end of the trial.

When you come to address the jury, "be calm and deliberate and do not begin until you are ready; don't look up at the jury as if you feared them; don't look down upon them as if you despised them, but look each one dead in the eyes, and speak to your client's cause." Such was the advice I heard an old lawyer give to a young one many years ago; better could not be given, as my experience and observation have proven.

The jury, the twelve plain men selected as the law directs, are not the jurors of the State or of the defendant; they are the jurors of the law, upon whom has been imposed the solemn and responsible duty of passing between the State and the prisoner at the bar upon his life

and death, and they are generally competent to the task; such is the experience of the ages, for there is no right so precious to people of English lineage as the right of trial by jury. Such a body is not to be looked up to with fear, for the happiest day in the life of a man, falsely accused of crime, is the day when he faces an honest jury and demands that they shall "hearken to his cause." Nor are they to be despised, they alone are clothed with the tremendous power of taking away the life which God alone can give, and none can take away without His consent; under Deity, they are the absolute arbiters of the prisoner's fate, with none to question their verdict, and from which there is no appeal. And as you fear them not, neither can you despise them; you are to address them boldly, and with the most profound respect. You want their verdict, you hunger and thirst for it, and you must have it, if by the best exercise of your best powers of heart and mind it may be had. As you look each juror steadily in the eyes, let your looks give assurance that they have no reason to fear that you will attempt to hector or brow-beat, nor to trick or deceive them into a verdict; neither to despise you because of the truculency, sycophancy or subserviency of your manner, or for your artfulness and disingenuousness in presenting to them your client's cause.

Speak to your client's cause. It is generally best to commence in an ordinary conversational tone and with as much of clearness as you can, make a fair summary of the evidence. I say a fair summary—it must be absolutely so, and it must be full; no important portion of the evidence must be omitted, and not one jot or tittle must be perverted. This must be done, not coldly, for there must be no coldness about your whole speech; your manner should be calm and dignified, and your

self-possession perfect but not conspicuous. If you perform this part of your task well, you will perceive that you have secured the attention of the jury and that they are preparing to give you their confidence. To fix and keep their attention, without which your speech will be in vain, your manner must be natural and not theatrical, and by voice, gesture, attitude and countenance you must show that you are speaking from the heart to the heart; for it is true that with most plain, honest men it is largely through their emotional natures you must seek and receive their intellectual assent Be candid, be honest, be earnest, be eloquent with the forensic eloquence of to day, which is "logic red-hot."

There is one further and very important suggestion I will make to you. When you have done, stop. For if when your speech has reached its natural and expected close, you go on with needless repetitions or unmanly appeals for mercy, with which the jury has nothing to do, you run the almost certain risk of obliterating many of the impressions you may have made on their minds favorable to the prisoner, and incline them strongly to find for the State.

After obtaining license to practice law, you will be told, have doubtless been many times told already, there is no room in North Carolina for any more lawyers than we now have, the legal profession in the State is crowded; with the Supreme Court licensing thirty or forty or fifty new lawyers every year, and with the number of cases on the docket growing smaller in every county in the State, and their importance growing less, the harvest for you (if there is any harvest) is very unpromising; and you will be advised to go into some other business. I say to you, be not discouraged by such suggestions, and heed not such advice; if you love

the law, and feel that you have an aptitude for its practice, stick to it. Taking into consideration the facts that many licensed attorneys move from the State, and many turn their attention to other business, the number of lawyers in the State, to-day, is not greater in proportion to population than it was prior to 1860; the decrease of litigation is an incident of the "hard times" which have been upon the country for several years past, and may be expected to pass away when prosperity returns; prosperous times for the people generally are prosperous times for the lawyers, and the reverse. Even as it is now, I do not know, nor by inquiry have I been able to discover, a lawyer in North Carolina, who is sober, honest and diligent in business, who is not meeting with reasonable success, certainly with as much success as are those engaged in other pursuits of life; there is no *reason* why you should despair, and but little more why you should despond.

Where shall you locate is a question which each one of you will naturally ask himself. You will look to the States to the North and to the South, but most hopefully to the vast empire beyond the Mississippi, called "The West," and you will assume that any place is a more promising field of labor, and more inviting to ambitious youths than is the State of your birth—you are mistaken. I have traveled over a large portion of this great country, and am tolerably familiar with the conditions of life in the West and Southwest, and know that to you they would be as new, strange and hard as if you were on another continent; and you would soon learn that the same energy and effort you would have to put forth there would give better and happier, if not greater results, if employed at home among kindred and friends, and those who wish you well. Each country

has its advantages and its drawbacks, but averagin all, I declare to you I would rather take my chan ces for life, liberty and happiness in North Carolina tha in any portion of the earth I have seen.

"Tho' the scorner may sneer at
And the witling defame her,
My heart swells with gladness
Whenever I name her."